

**In the Claims**

1. (Currently amended) A hair retaining device for placement on a head, said device comprising:

an annular, elasticized portion for adjusting to heads of varying sizes and for encircling a wearer's head, said elasticized portion having an upper edge; and

a hair retainer gathered at and extending upwardly from said upper edge of said elasticized portion and terminating at a generally circular retaining lip circumscribing an opening, said lip having a diameter and said upper edge having a diameter smaller than the said lip diameter to form a frustoconical collar for retaining hair.

2. (original) The device of claim 1, wherein said hair retainer comprises a stiff material and is at least partially rigid so as to maintain a frustoconical shape and not rest upon said hair when placed on said wearer's head.

3. (original) The device of claim 1, wherein said stiff material is disposed within fabric gathered at and extending upwardly from said upper edge of said elasticized portion.

4. (original) The device of claim 1, wherein said stiff material is mesh and said fabric is terrycloth.

5. (original) The device of claim 1, wherein said elasticized portion comprises a continuous elastic disposed within a fabric covering.

6. (original) The device of claim 5, wherein said elastic and said fabric covering are continuously stitched together, said fabric puckered to allow said elastic to expand therein.

7. (Currently amended) A device for holding hair away from a wearer's face, comprising:

a band of elasticized material for adjustable retention of said device on a wearer's head, said band contracting about said wearer's head and having an upper edge;

an annular hair retainer extending upwardly from said upper edge and terminating at a generally circular retaining lip circumscribing an opening, said hair retainer being frustoconical in shape when said band is expanded for placement upon said wearer's head.

8. (original) The device of claim 7, wherein said elasticized material comprises a continuous elastic band disposed in a fabric covering.

9. (original) The device of claim 8, wherein said elastic and said fabric covering are continuously stitched together, said fabric puckered to allow said elastic band to expand therein.

10. (original) The device of claim 7, wherein said band of elasticized material has a diameter less than any diameter of said hair retainer when said headband is worn on said wearer's head.

11. (original) The device of claim 7, wherein said hair retainer is at least partially stiff to maintain said hair retainer as frustoconical in shape and prevent said hair retainer from resting upon said hair.

12. (original) The device of claim 7, wherein said hair retainer comprises stiffening material disposed in fabric, said fabric gathered at said upper edge, to maintain said hair retainer as frustoconical in shape.
13. (original) The device of claim 12, wherein said fabric is terrycloth and said stiffening material is mesh.
14. (Currently amended) A hair band, comprising:  
continuous twofold fabric having an interior surface and an exterior surface forming an annular inner edge and an annular outer edge of said hair band;  
an elastic portion disposed within a first portion of said interior surface of said twofold fabric, said first portion along said inner edge of said hair band; and  
stiffening material disposed within a second portion of said interior surface of said twofold fabric, said second portion along said outer edge of said hair band,  
wherein said second portion is frustoconical in shape and extends upwardly from said outer edge terminating at a generally circular retaining lip circumscribing an opening.
15. (original) The hair band of claim 14, further wherein said elastic is a band continuously bound to said twofold fabric.
16. (original) The hair band of claim 15, further comprising stitching through both said twofold fabric and said elastic.
17. (original) The hair band of claim 14, wherein said exterior surface of said twofold fabric is puckered when said elastic is contracted.

18. (original) The hair band of claim 14, wherein said twofold fabric is terrycloth.
19. (original) The hair band of claim 14, wherein said stiffening material is mesh.
20. (Currently amended) A device for retaining hair, comprising:
  - an annular elasticized headband for adjusting to human heads of varying sizes, said headband having an upper edge;
  - a frustoconically shaped hair retainer extending upwardly from said upper edge and terminating at a generally circular retaining lip circumscribing an opening, said lip having a diameter and said upper edge having a diameter smaller than the said lip diameter to form a frustoconical collar for retaining hair without crushing said hair.